

CALIFORNIA STATE PERSONNEL BOARD MEETING
Shilo Hilltop Suites & Conference Complex
3101 Temple Avenue
Pomona, California 91768
(909) 598-7666/FAX 598-5654

www.spb.ca.gov

Public Session Location - Cal Room
Closed Session Location - Cal Room

MID-MONTH BOARD MEETING MINUTES

SEPTEMBER 19, 2000

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBER PRESENT:

Ron Alvarado, Vice President
Richard Carpenter, Member
William Elkins, Member
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. State Personnel Board staff met with the directors of the California Conservation Corps and the Department of Transportation to discuss personnel issues impacting their agencies.
- B. Representatives of the Canadian Personnel System will visit the State Personnel Board to learn about the Board's use of automation to expedite selection processes and improve services.

- C. State Personnel Board staff attended the 61st annual general council meeting of the California State Employees Association.
- D. The input process for the State Personnel Board's Strategic Plan was initiated with the distribution of the draft plan and an all staff meeting.
- E. Juan Lopez-Rodriguez has been selected to staff the State Personnel Board's Bilingual Services Unit.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation

- A. Orr Kellogg v. State Personnel Board/Department of Corrections - Superior Court upheld Board decision sustaining dismissal of appellant for committing corporal injury on his co-habitant, interfering with and being rude to an investigator and being dishonest in an investigation.
- B. John Young v. State Personnel Board/Department of Industrial Relations - Superior Court upheld a Board decision sustaining the dismissal of worker's compensation judge for dishonesty in signing affidavits saying he had no cases over 90 days old and for inappropriate behavior towards two female attorneys.
- C. ACSS v. California Department of Corrections - Oral argument scheduled for October 17 at 2:00 p.m. Issue is whether a letter of instruction constitutes "other disciplinary action" such that it would be appealable to the Board.
- D. Roe v. Department of Justice/State Personnel Board - First District Court of appeal has denied Department of Justice petition for reconsideration.

Other

A. Contracting Out for Legal Services - Elise Rose and Karen Brandt met with legal representatives of the Office of the Attorney General and Department of General Services to discuss the issue of the role of the different agencies regarding contracting out for legal services where the Attorney General's Office refuses representation.

B. CSA has advised that they have come to agreement with the AG's office regarding the contracting out for legal services that allows for ACSA to receive notice of contemplated employment of outside counsel by the AG or other state agencies and that provides that any such contracts will be consistent with the provisions of Government Code section 19130.

C. State Employee Mediation Program

Informational seminar scheduled for October 24 here at the Board.

D. SPB Appeals Division Roundtable

First meeting in process of being scheduled for October 25, 1-3:30, at SPB in Room 312. The roundtable is designed to provide updates on what is new with the Appeals Division on both the non-evidentiary merit appeals, and evidentiary sides and to provide a forum for questions, comments and suggestions by Appeals Division stakeholders.

4. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

A. Status of legislation signed or vetoed by the Governor.

B. Judy Balmain and Kathie Vaughn have attended meetings with Cooperative Personnel Services (CPS), local governmental agencies and state departments to better understand the functions involved with the implementation of the Merit System Services Program.

- C. Legislative package will be presented to the State Personnel Board at the October 3-4, 2000 Board meeting.

5. PERS UPDATE - Sean Harrigan

The Board was advised of the following:

- A. The issue of divestiture of tobacco stocks has been deferred to next months PERS Board meeting.
- B. The PERS investment committee well be studying staff recommendations for investments in emerging markets.
- C. The return to the pension plan for the fiscal year 1999-2000 was 10.5%.
- D. The PERS health care committee is looking at a variety of cost containment items to mitigate the rising cost of health care for next year.

BOARD ACTIONS

6. STATE PERSONNEL BOARD SUMMARY MINUTES OF SEPTEMBER 6, 2000

ACTION: Adopted on September 19, 2000.

VOTE: Alvarado, Carpenter, Elkins, Harrigan - Aye.

7. ACTION ON SUBMITTED ITEMS

ACTION: See pages 17-19

8. ADMINISTRATIVE LAW JUDGE CASES

On September 19, 2000, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Alvarado, Carpenter, Elkins, Harrigan - Aye.

CHIEF COUNSEL RESOLUTION

EULALIE B. YOUNG, CASE NO. 99-2710

Appeal from racial discrimination complaint
Department of Consumer Affairs

ACTION: Board adopted stipulated settlement

PROPOSED DECISIONS

SANDI TOMKINSON, CASE NO. 99-3004
Appeal from discrimination complaint
Department of Corrections
ACTION: Discrimination complaint denied

SALVADOR R. SENDEJAS, CASE NO. 00-2065
Appeal from 10 percent reduction in salary for 12 months
Department of the Youth Authority
ACTION: Reduction in salary revoked

JAMES D. FINEBERG, CASE NO. 00-2077
Appeal from 10 percent reduction in salary for 12 pay
periods
Department of the Youth Authority
ACTION: Reduction in salary revoked

ROMANDO SIZEMORE, CASE NO. 00-0418
Appeal from dismissal
Department of Corrections
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself.

BENNIE POWELL, JR., CASE NO. 00-1372
Appeal from dismissal
Department of General Services
ACTION: Dismissal sustained

JOE C. DAVIS, CASE NO. 00-1576
Appeal from termination with fault
Department of Parks and Recreation
ACTION: Appeal dismissed

DEBORAH A. BROOKINS, CASE NO. 99-4786
Appeal from rejection
Department of Health Services
ACTION: Rejection affirmed and appeal denied

VICTORIA CAMMON, CASE NO. 00-0317
Appeal from dismissal

Department of Developmental Services

ACTION: Dismissal modified to 30 days suspension

PETITIONS FOR REHEARING

JANET HOUCHENS, CASE NO. 99-0891P

Appeal from 5 percent reduction in salary for one month

Department of Forestry and Fire Protection

ACTION: Petition for rehearing filed by respondent denied

HOLLY A. HOFFMAN, CASE NO. 99-0111P

Appeal from 3 days suspension

Department of Justice

ACTION: Petition for rehearing filed by appellant granted
and remanded to Administrative Law Judge

EDWARD A. HARRIS, JR., CASE NO. 99-2786P

Appeal from dismissal

Department of Mental Health

ACTION: Petition for rehearing filed by respondent denied

JANETT L. HYATT, CASE NO. 00-0856P

Appeal from termination with fault

Department of Corrections

ACTION: Petition for rehearing filed by appellant granted
and remanded to Administrative Law Judge.

9. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: See pages 20-23.

10. MISCELLANEOUS APPEALS DIVISION CASES
Withholds, Voided Appointments, Rule 211 Appeals, Petitions
for Rehearing)
On September 19, 2000, the Board adopted the following
decisions presented by Linda Brooks, Assistant Executive
Officer, California State Personnel Board.
VOTE: Alvarado, Carpenter, Elkins, Harrigan - Aye.

VOIDING OF APPOINTMENT

- A. RICK WILLMORE, CASE NO. 99-4929
Classification: Associate Information Systems Analyst
(Specialist)
ACTION: DENIED

WITHHOLD CASES

- B. ANABEL ARREOLA, CASE NO. 00-0370
Classification: Correctional Officer
ACTION: GRANTED
- C. TIMOTHY GRIFFIN; CASE NO. 99-5046
Classification: Youth Correctional Counselor
ACTION: GRANTED
- D. VALERIE E. HARRIS, CASE NO. 99-0717
Classification: Food Services Food Worker I
ACTION: GRANTED
- E. NARVA N. KENNEDY, CASE NO. 99-5320
Classification: Youth Correctional Counselor
ACTION: GRANTED
- F. CLINT R. MARQUEZ, CASE NO. 99-4659
Classification: Correctional Officer
ACTION: GRANTED
- G. CANICE NJOKU, CASE NO. 00-0828
Classification: Correctional Officer
ACTION: GRANTED
- H. RUBEN SILVA, CASE NO. 99-4657
Classification: Correctional Officer
ACTION: GRANTED
- I. JOEL VELASQUEZ, CASE NO. 99-3757
Classification: Correctional Officer
ACTION: GRANTED
- J. BOB WILLIAMS, CASE NO. 99-5270
Classification: Correctional Officer

ACTION: GRANTED

- K. WILLIE J. ARMSTRONG, CASE NO. 99-4867
Classification: Correctional Officer
ACTION: DENIED
- L. STANLEY BECKHAM, CASE NO. 00-1718
Classification: Correctional Officer
ACTION: DENIED
- M. CHRISTIAN L. BELSKY, CASE NO. 99-4007
Classification: Assoc. Info. Sys. Analyst, (Spec.)
ACTION: DENIED
- N. SUSAN G. BENEST, CASE NO. 00-1508
Classification: Correctional Officer
ACTION: DENIED
- O. TOBY BONINE, CASE NO. 00-1063
Classification: Correctional Officer
ACTION: DENIED
- P. ROBERT BRILLANTES, CASE NO. 99-5051
Classification: Hospital Peace Officer I
ACTION: DENIED
- Q. LESHEL CAMPBELL, CASE NO. 00-1505
Classification: Medical Technician Assistant, CF
ACTION: DENIED
- R. EDWARD CERVANTES, CASE NO. 99-5334
Classification: Cadet, CHP
ACTION: DENIED
- S. BRIAN COFFIA, CASE NO. 00-0220
Classification: Correctional Officer
ACTION: DENIED
- T. TERENCE L. EASTERLING, CASE NO. 00-0616
Classification: Correctional Officer
ACTION: DENIED

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- U. ALICIA FLORES-DURAN, CASE NO. 99-5226
Classification: Correctional Officer
ACTION: DENIED
- V. IBERA O. FRANCO, CASE NO. 99-4360
Classification: Psychiatric Technician Trainee
ACTION: DENIED
- W. DEBBIE GARCIA-RILEY, CASE NO. 00-1016
Classification: Youth Correctional Counselor
ACTION: DENIED
- X. JACOB D. GROEN, CASE NO. 00-1099
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- Y. BONNIE HENSON, CASE NO. 99-5043
Classification: Correctional Officer
ACTION: DENIED
- Z. BARRY HOLMES, CASE NO. 00-0614
Classification: Hospital Peace Officer I
ACTION: DENIED
- AA. NATASHIA S. HUNTER, CASE NO. 00-1322
Classification: Correctional Officer
ACTION: DENIED
- BB. MICHAEL L. JOHNSON, CASE NO. 00-1062
Classification: Correctional Officer
ACTION: DENIED
- CC. KEENAN L. JONES, CASE NO. 99-4911
Classification: Correctional Officer
ACTION: DENIED
- DD. KENDALL W. KING, CASE NO. 00-0943
Classification: Correctional Officer
ACTION: DENIED
- EE. BRYAN MALLERY, CASE NO. 99-3825
Classification: Correctional Officer
ACTION: DENIED
- FF. LISA MARTINEZ, CASE NO. 00-1425
Classification: Youth Correctional Officer
ACTION: DENIED

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GG. SOCORRO MAZZEU, CASE NO. 00-1440
Classification: Licensing-Registration Examiner, (DMV)
ACTION: DENIED

HH. BLANCA MONTANEZ, CASE NO. 00-1332
Classification: Correctional Officer
ACTION: DENIED

II. TERRI MORALES, CASE NO. 99-4358
Classification: Assoc. Info. Sys. Analyst, Spec.
ACTION: DENIED

JJ. WESLEY J. NORTON, CASE NO. 00-1306
Classification: Correctional Officer
ACTION: DENIED

KK. PASCUAL J. ORTIZ, CASE NO. 00-0404
Classification: Correctional Officer
ACTION: DENIED

LL. NICOLE PENNELL, CASE NO. 00-1303
Classification: Correctional Officer
ACTION: DENIED

MM. WENDY M. RINER, CASE NO. 99-5225
Classification: Correctional Officer
ACTION: DENIED

NN. KEVIN V. ROSS, CASE NO. 00-0056
Classification: Assoc. Info. Sys. Analyst (Spec.)
ACTION: DENIED

OO. BRYAN K. ROWE, CASE NO. 00-1081
Classification: Correctional Officer
ACTION: DENIED

PP. ESMERALDA SANCHEZ, CASE NO. 00-1424
Classification: Correctional Officer
ACTION: DENIED

QQ. MARC SIMON, CASE NO. 99-4907
Classification: Correctional Officer
ACTION: DENIED

RR. DANIEL SLOAN, CASE NO. 99-4990
Classification: Correctional Officer

ACTION: DENIED

SS. LISA D. SMITH, CASE NO. 00-0371
Classification: Parole Agent I, Adult Parole
ACTION: DENIED

TT. SYLVIA D. TORRES, CASE NO. 99-4991
Classification: Correctional Officer
ACTION: DENIED

UU. ABEL VELASCO, CASE NO. 00-1136
Classification: Correctional Officer
ACTION: DENIED

VV. JEREME M. VENTURA, CASE NO. 99-5197
Classification: Correctional Officer
ACTION: DENIED

WW. JANEL YOUNG, CASE NO. 00-1088
Classification: Correctional Officer
ACTION: DENIED

DISMISSAL CASES

XX. MARC S. EISERT, CASE NO. 00-2038
Classification: Correctional Officer
ACTION: DISMISSED

YY. KARL JONES, CASE NO. 99-5308
Classification: Caltrans Equipment Operator
ACTION: DISMISSED

11. MEDICAL APPEALS

On September 19, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Alvarado, Carpenter, Elkins, Harrigan - Aye.

A. WARREN CARWILE, CASE NO. 00-0170
Classification: Parole Agent, I, Adult Parole
ACTION: GRANTED

B. JAMES COLLINS, CASE NO. 99-3309
Classification: Parole Agent, I, Adult Parole

ACTION: DENIED

- C. SCOTT HOUSTON, CASE NO. 00-0227
Classification: Parole Agent, I, Adult Parole
ACTION: DENIED
- D. GWENDOLYN BELION, CASE NO. 00-2457
Classification: Youth Correctional Officer
ACTION: GRANTED
- E. RAMON DUENES, CASE NO. 00-2569
Classification: Youth Correctional Officer
ACTION: GRANTED
- F. MARY KANIA, CASE NO. 00-2456
Classification: Senior Special Investigator
ACTION: GRANTED
- G. CHRISTOPHER SARABIA, CASE NO. 00-2549
Classification: Cadet, California Highway Patrol
ACTION: GRANTED

DISMISSAL CASES

- H. SAMUEL AGUILAR, CASE NO. 00-1778
Classification: Cadet, California Highway Patrol
ACTION: DISMISSED
- I. RANDY OBERT, CASE NO. 00-2126
Classification: Laborer
ACTION: DISMISSED
- J. QUENTIN PETERS, CASE NO. 00-1438
Classification: Correctional Officer
ACTION: DISMISSED

12. EXAMINATION APPEALS

On September 19, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Alvarado, Carpenter, Elkins, Harrigan - Aye.

- A. MELINDA MCALISTER, CASE NO. 00-1896
Class: State Park Ranger Cadet
Testing Agency: Parks and Recreation

ACTION: GRANTED

13. REQUEST TO FILE CHARGES CASES

On September 19, 2000, the Board took the following actions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Alvarado, Carpenter, Elkins, Harrigan - Aye.

- A. FLOYD CALDWELL, CASE NO. 99-4090
Classification: Correctional Lieutenant
ACTION: DENIED
- B. MARCUS, CAZARES, CASE NO. 99-4091
Classification: Unknown
ACTION: DENIED
- C. MARY JANE HUGHES, CASE NO. 99-4487
Classification: Unknown
ACTION: DENIED
- D. SHARON MAGNISON, CASE NO. 00-0178
Classification: Office Technician (G)
ACTION: DENIED
- E. SHIRLEY MALDONADO, CASE NO. 99-4520
Classification: Fire Fighter, CF
ACTION: DENIED
- F. GAYE WELCH-BROWN, CASE NO. 99-2441
Classification: Accounting Admin 1, Supvr.
ACTION: DENIED

14. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

- A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

- 1. CHIEF, FINANCIAL MANAGEMENT AND CONTROL DIVISION
The Department of Personnel Administration proposes to allocate the above position to the CEA category. The Chief, Financial Management and Control Division manages the department's costing, financial control, and internal audit functions,

as well as its oversight of the Tribal Labor Relations Program. The department indicates that the position will be at the second organizational level and will report directly to the Directorate.

2. DEPUTY SUPERINTENDENT FOR EDUCATION EQUITY, ACCESS AND SUPPORT

The Department of Education proposes to allocate the above position to the CEA category. Under the direction of the Chief Deputy Superintendent of Public Instruction for Policy and Programs and the State Superintendent of Public Instruction, this position is responsible for the administration of educational and special instructional-related programs to California local educational agencies.

The department indicates that the position will be at the second organizational level and has considerable policy responsibilities. The position will report directly to the State Superintendent of Public Instruction and the Chief Deputy Superintendent for Policy and Programs.

3. ASSISTANT SECRETARY FOR ENVIRONMENTAL JUSTICE

The California Environmental Protection Agency proposes to allocate the above position to the CEA category. The Assistant Secretary for Environmental Justice will be responsible for developing Cal/EPA's environmental justice mission statement, managing the agency's environmental justice activities, and coordinating and overseeing the environmental justice activities of the agency's boards, departments, and offices. The department indicates that the position will be at the second organizational level and will report directly to the Deputy Secretary for Policy and Intergovernmental Affairs.

4. ASSISTANT SECRETARY FOR CHILDREN'S ENVIRONMENTAL HEALTH

The California Environmental Protection Agency proposes to allocate the above position to the CEA category. The Assistant Secretary for Children's Environmental Health will be responsible for managing the Agency's activities related to protecting children's health from environmental hazards, and coordinating the children's environmental health activities of the Agency's

boards, departments, and offices. The department indicates that the position is at the second organizational level and will report directly to the Deputy Secretary for Policy and Regulations.

5. ASSISTANT SECRETARY FOR BORDER AFFAIRS
The California Environmental Protection Agency proposes to allocate the above position to the CEA category. The Assistant Secretary for Border Affairs will be responsible for managing the Agency's activities related to protecting California's border region resources from environmental hazards, represent California's interests, and coordinate and direct the California-Mexico border activities agency's board, departments and offices. The department indicates that the position is at the second organizational level and will report directly to the Deputy Secretary for Policy and Regulations.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO
ESTABLISH NEW CEA POSITIONS

1. EXECUTIVE DIRECTOR
The New Motor Vehicle Board's request to allocate the above position to the CEA category has been approved effective August 11, 2000.
2. SPECIAL ASSISTANT TO THE DIRECTOR FOR FIELD
OPERATIONS
The California Conservation Corps' request to allocate the above position to the CEA category has been approved for 12 months effective August 23, 2000.
3. MANAGER, RESEARCH AND STATISTICS SECTION
The Board of Equalization's request to allocate the above position to the CEA category has been approved effective August 23, 2000.

C. REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN
6/30/95 AND 1/1/99

1. CHIEF ADMINISTRATIVE OFFICER
The Department of Financial Institutions is requesting to refill the above position.
2. CHIEF COUNSEL
The Department of Insurance is requesting to refill the above position.

D. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO
REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND
1/1/99

1. CHIEF, OFFICE OF POLICY DEVELOPMENT AND
FORECASTING
The Department of Food and Agriculture's request to refill the above position has been approved effective August 11, 2000.
2. DISTRICT DIRECTOR (INLAND EMPIRE SERVICE DISTRICT)
The California Conservation Corps request to refill the above position has been approved effective August 16, 2000.
3. DISTRICT DIVISION CHIEF, PROGRAM AND PROJECT
MANAGEMENT (DISTRICT 7)
The Department of Transportation's request to refill the above position has been disapproved, August 23, 2000.
4. CHIEF, PUBLIC SAFETY RADIO SERVICES,
TELECOMMUNICATIONS DIVISION
The Department of General Services request to refill the above position has been approved effective August 16, 2000.
5. EXECUTIVE MANAGER, 911 PROGRAM
The Department of General Services request to refill the above position has been approved effective August 16, 2000.
6. ASSISTANT CHIEF COUNSEL, BUSINESS TAXES SECTION
The Board of Equalization's request to refill the above position has been disapproved effective August 16, 2000.
7. TECHNOLOGY DEVELOPMENT AND OPERATIONS MANAGER

The Board of Equalization's request to refill the above position has been disapproved effective August 17, 2000.

8. DISTRICT DIVISION CHIEF, PLANNING (DISTRICT 12 AND DISTRICT 2)

The Department of Transportation's request to refill the above two positions has been approved effective August 18, 2000.

9. CHIEF, CHANGE MANAGEMENT OFFICE

The California Public Employees Retirement System's request to refill the above position has been approved effective August 28, 2000.

10. DIRECTOR, OFFICE OF PROGRAM REVIEW AND AUDITS

The Department of Justice's request to refill the above position has been approved effective August 30, 2000.

ACTION: Noted

15 . WRITTEN STAFF REPORT FOR BOARD INFORMATION

- A. The 1999-2000 Annual Census of State Employees and Affirmative Action Report for the Governor and the Legislature.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. AARON TUTER, CASE NO. 99-3383. Appeal from dismissal. Department of Corrections. (Oral argument held June 6, 2000).

NO ACTION

2. JEANETTE DUTTON, CASE NO. 98-2550. Appeal from dismissal. Department of Corrections. (Oral argument held July 6, 2000).

ACTION: On September 19, 2000, adopted Board decision modifying dismissal to 30-calendar days suspension.

VOTE: Alvarado, Carpenter, Elkins, Harrigan - Aye.

3. COMPETITIVE CEA EXAMINATIONS
PROPOSAL TO AMEND EXISTING RULE 548.40 TO COMPLY WITH THE
FINDING IN ALEXANDER V SPB THAT CEA EXAMINATION CANDIDATES
MUST BE RANKED AND COMPARED AGAINST THE RELEVANT
QUALIFICATIONS FOR THE POSITION AND ALSO AGAINST EACH OTHER.
(Hearing held
July 6, 2000).

NO ACTION

4. DEPUTY COMMISSIONER, BOARD OF PRISON TERMS (SAFETY)
(Hearing held August 1, 2000).

NO ACTION

5. PROPOSITION 35 (PUBLIC WORKS PROJECT)
(Hearing held August 1, 2000).

ACTION: On September 19, 2000, Board adopted a resolution.
(See pages 24-26).

VOTE: Carpenter, Elkins, Harrigan - Aye.
Alvarado - Abstained.

6. FREDERICK ROBERTSON, CASE NO. 99-3880. Appeal from dismissal. Department of Developmental Services. (Oral argument held September 6, 2000).

NO ACTION

7. M. BRENT EDWARDS, CASE NO. 99-4422. Appeal from constructive termination. Department of Mental Health. (Oral argument held September 6, 2000).

NO ACTION

8. JAMES R. LEKSAN, CASE NO. 99-1242. Appeal from 60-day's suspension. Department of Corrections. (Oral argument held September 6, 2000).

NO ACTION

9. GABRIEL HERNANDEZ, CASE NO. 98-2868. Appeal from dismissal. Department of Mental Health. (Oral argument held September 6, 2000).

NO ACTION

10. MARK LOVINGTON, CASE NO. 99-3202. Appeal from 30-calendar day's suspension. Department of Housing and Community Development. (Oral argument held September 6, 2000).

NO ACTION

11. WILLIAM SULLIVAN, CASE NO. 99-3904. Appeal from dismissal. Department of Corrections. (Oral argument held September 6, 2000).

NO ACTION

12. LINDA C. BAER, CASE NO. 99-1303. Appeal from denial of permanent red circle rate. Department of California Highway Patrol. (Oral argument held September 6, 2000).

NO ACTION

13. WILLIAM WILSON, CASE NO. 99-1661. Appeal from dismissal. Department of Corrections. (Oral argument held September 6, 2000).

NO ACTION

14. CHRISTOPHER RAMOS, CASE NO. 99-0458P. Appeal from 5 percent reduction in salary for 6 months. Department of Corrections. (Oral argument held September 6, 2000).

NO ACTION

15. TRACI A. STEVENS, CASE NO. 99-4790
Appeal from termination of Career Executive Assignment
TRACI A. STEVENS, CASE NO. 99-5102
Discrimination complaint. California Energy Commission.
(Written argument presented September 6, 2000.)

ACTION: On September 19, 2000, adopted Board decision affirming termination and denying discrimination complaint.
VOTE: Alvarado, Carpenter, Elkins, Harrigan - Aye.

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on September 19, 2000.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Alvarado, Carpenter, Elkins, Harrigan - Aye.

WHEREAS, In Professional Engineers in California Government v. Department of Transportation (PECG v. Caltrans),¹ the California Supreme Court recognized that a civil service mandate emanates from Article VII of the California Constitution, which prohibits state agencies from contracting with private entities to perform work that the state has historically and customarily performed and can perform adequately and competently, unless the state can show that the contract meets one of several safeguards identified by the courts or codified by the Legislature;

WHEREAS, existing law permits state agencies to enter into contracts with private entities under a wide array of circumstances, including when: (1) the contract will result in cost savings to the state; (2) the contracted services constitute a "new state" function, specifically authorized by the Legislature; (3) the state agency requires expert knowledge, experience or ability not available within state service; (4) there is a need to protect against a conflict of interest or obtain a different outside perspective; (5) the contractor will provide equipment, materials, facilities, or support services that the state cannot provide in the location where the services are to be performed; or (6) the services contracted for are urgent, temporary or occasional;

¹ (1997) 15 Cal.4th 543, 547.

WHEREAS, pursuant to the authority granted to it in Article VII of the California Constitution and Government Code § 18670, and in accordance with existing law,² on August 1, 2000, the State Personnel Board (Board) conducted a public, informational hearing and invited interested persons, including the proponents and opponents of Proposition 35, to testify as to the impact that Proposition 35 may have on the Board's constitutional responsibility to enforce existing law governing the contracting of state services;

WHEREAS, Proposition 35 provides that the California Supreme Court's decision in PECG v. Caltrans will not apply to architectural and engineering services, and creates an exception to the state's civil service mandate for one special interest group - architects and engineers;

WHEREAS, Proposition 35 contains no standards, rules, or performance requirements to compel contractors to provide timely, efficient, cost-effective, or expert services to the state;

WHEREAS, if Proposition 35 were to pass, a state agency could enter into a contract for architectural and engineering services without regard to Article VII's civil service mandate, and without having to show that the contract meets one of the safeguards identified by the courts and/or codified by the Legislature;

² See, e.g., League of Women Voters of California v. Countywide Criminal Justice Coordination Committee (1988) 203 Cal.App.3d

WHEREAS, if Proposition 35 were to pass, a state agency could award a contract without any consideration as to whether the contract would result in improved performance or less costly service to the state than if the work were performed by civil service employees;

WHEREAS, Proposition 35 increases the risk that patronage will influence the awarding of state contracts;

WHEREAS, the Board is constitutionally and statutorily charged with protecting and preserving the merit principle in state service, and ensuring a civil service system that is free from patronage and spoils;

WHEREAS, existing law already provides ample authority for state agencies to contract with private entities for state work that cannot be accomplished adequately, competently, or as economically by civil service workers;

BE IT THEREFORE RESOLVED that, because Proposition 35 increases the risk that patronage will influence the awarding of state contracts and provides no safeguards to ensure that the contracts that are awarded pursuant to its provisions will result in improved performance or less costly service, the State Personnel Board **OPPOSES** the passage of Proposition 35.

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ACTION: On September 19, 2000, Board adopted a resolution.
(See pages xx-xx).

VOTE: Carpenter, Elkins, Harrigan - Aye.
Alvarado - Abstained.